

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MOAZ AL-MAHMOUDY,)
Plaintiff,) Civil Action No. 05-167E
v.) Hon. Maurice B. Cohill Jr.
U.S. CITIZENSHIP &) United States District
IMMIGRATION SERVICE,) Judge
Defendant.) ELECTRONICALLY FILED

DEFENDANT'S ANSWER

AND NOW, comes the Defendant, the U.S. Citizenship & Immigration Service, by and through its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Paul D. Kovac, Assistant United States Attorney for said district, and answers Plaintiff's Complaint on information and belief as follows:

1. Denies the allegations contained in paragraph 1 of Plaintiff's Complaint for lack of knowledge or information sufficient to form a belief as to the truth of the matter asserted.

2. The allegations contained in paragraph 2 of the Complaint constitute Plaintiff's description of the party he has sued, to which no answer is required. To the extent this paragraph may be deemed to contain allegations of fact, they are denied.

3. The allegations contained in paragraph 3 of the Complaint are neither admitted nor denied because they constitute Plaintiff's characterization of his case and conclusions of law regarding jurisdiction, to which no answer is required. To the extent this paragraph may be deemed to contain allegations of fact, they are denied.

FACTS

4. Admit.

5. Admit.

6. Admit that Plaintiff filed for a request for hearing on October 18, 2004. Admit that Plaintiff submitted a Medical Certification for Disability Exceptions that indicates it was signed by Plaintiff on September 29, 2004. Admit that on February 18, 2005, the District Director denied Plaintiff's request for a hearing and affirmed the prior denial of Plaintiff's application for naturalization.

7. No response is required for the allegations contained in paragraph 7 of the Complaint because the naturalization denial decision that is referenced and summarized speaks for itself and is the best evidence of its contents.

8. Denies the number of times Plaintiff submitted the medical waiver forms as alleged in paragraph 7 of the Complaint. No response is required for the remaining allegations contained in paragraph 7 of the Complaint because the medical waiver forms that are referenced and summarized by Plaintiff speak for themselves and are the best evidence of their contents.

9. The allegations contained in paragraph 9 of Plaintiff's Complaint constitute Plaintiff's characterization of his case and prayer for relief, to which no answer is required. However, to the extent that said paragraphs may be deemed to contain allegations of material fact, they are denied. By way of a further response, Defendant denies that Plaintiff is entitled to the relief requested in said paragraph.

10. Each and every allegation of material fact not admitted, denied, or otherwise qualified is hereby denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Court lacks subject matter jurisdiction over Plaintiff's claims, in whole or in part.

THIRD AFFIRMATIVE DEFENSE

Plaintiff has failed to fully and finally exhaust administrative remedies prior to the commencement of this lawsuit. Plaintiff is therefore barred from recovery.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff is ineligible for the relief sought in the Complaint.

WHEREFORE, Defendant respectfully requests that the Complaint be dismissed with prejudice, that judgment be entered in favor of Defendant, and that Defendant be awarded any further relief as the Court deems appropriate in this action.

Respectfully submitted,

MARY BETH BUCHANAN
UNITED STATES ATTORNEY

By: s/Paul D. Kovac
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Dated: October 5, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of October, 2005, a true and correct copy of the foregoing Defendant's Answer was electronically filed and/or served by first-class United States mail, upon the following:

Mr. Moaz Al-Mahmoudy
2011 East 18th Street
Erie, PA 16510

s/Paul D. Kovac
PAUL D. KOVAC
Assistant United States Attorney